

# The Concept and implementation of Al-Nahyu In Contemporary Islamic Law Determination

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## Abstract

Usul Fiqh is the basis of the science of jurisprudence, which acts as a foundation in determining the law, classification of arguments as well as situations and conditions behind the existence of arguments. In the discussion of the Usul fiqh there is al-Nahyu, which has the meaning of prohibition in doing something that is prohibited by the Shari'a. This article will discuss the concept of al-Nahyu and its implementation in establishing Islamic law. The purpose of this discussion is to understand the way in which Islamic law is determined in accordance with what has been stated by ushul fiqh scholars in understanding the Koran and Hadith. This article is a literature study that uses the method of collecting data in documentation that comes from related reference materials such as books, journals and others. Then it is analyzed deductively, inductively and comparatively. There are Devision of Prohibition: *Nahi* shows that the law commits prohibited acts unless there are indications that indicate other laws, a prohibition on showing a facade (damaged) of an act that is prohibited if done, *Nahi* shows haram, *Nahi* shows a ban on something, an order for his opponent, *Nahi* shows an absolute prohibition, *Nahi* shows the prohibition on worship, *Nahi* shows a ban in mu'amalah.

**Keyword:** *Al-Nahyu; Concept and implementation; Islamic law Determination*

## Abstrak

Ushul Fiqih merupakan dasar dari ilmu fiqih, yang berperan sebagai pondasi dalam menentukan hukum, klasifikasi argumentasi serta situasi dan kondisi yang melatar belakangi adanya dalil-dalil. Di dalam pembahasan *Ushul fiqh* terdapat *al-Nahyu*, yang memiliki makna larangan dalam melakukan suatu hal yang dilarang oleh Syariat. Artikel ini akan membahas tentang konsep *al-Nahyu* dan implementasinya dalam menetapkan hukum Islam. Tujuan pembahasan ini, adalah untuk memahami cara penetapan hukum Islam sesuai dengan yang telah ditetapkan oleh ulama ushul fiqh dalam memahami al-Quran dan Hadith. Artikel ini merupakan kajian pustaka yang menggunakan metode pengumpulan data secara dokumentasi yang berasal dari bahan rujukan yang berkaitan seperti buku, jurnal dan lain-lain. Kemudian di analisis secara deduktif, induktif dan komparatif. Ada Ketentuan Larangan: *Nahi* menunjukkan bahwa undang-undang melakukan tindakan yang dilarang kecuali ada indikasi yang menunjukkan undang-undang lain, larangan menunjukkan *fasad* (rusak) dari tindakan yang dilarang jika dilakukan, *Nahi* menunjukkan haram, *Nahi* menunjukkan larangan sesuatu, perintah untuk lawannya, *Nahi* menunjukkan larangan mutlak, *Nahi* menunjukkan larangan ibadah, *Nahi* menunjukkan larangan di mu'amalah.

**Keywords:** *Al-Nahyu; Ushul Fiqh.*

## A. Introduction

Islam is a religion that perfects previous religions, in which all things have been arranged, starting from the smallest thing, to the biggest thing. As the last religion, of course its existence

collects and perfects previous religions, not limited to certain times and places, as a blessing for the universe can be applied to all forms of life and can answer the challenges of the times. According to Harun Nasution quoted by Kartini Islam it is concluded as a multi-complex teaching that contains various aspects of life and the life of mankind<sup>1</sup>.

As a perfect religion, which will not be consumed by time and place, and applies to all forms of life, Islam regulates all aspects of life in detail and where the rules or provisions of the law are based on the Qur'an and Hadith of the Prophet. The rules of Allah can be understood through Al-Qur'an pronunciation according to what is mentioned literally, cues, or instructions from the Qur'an, and instructions contained in the soul of the whole purpose of Allah in determining a Sharia.<sup>2</sup> With the existence of rules or provisions of Islamic law, making it imperative for every Muslim, to do everything in accordance with the demands of Sharia.

Science that regulates all aspects of Islam, namely the science of jurisprudence and the basics of the science of Fiqh is the Ummah of Fiqh. Sheikh Kamaluddin ibn Himman in Tahrir gives the definition of Usul Fiqh: "usul fiqh is an understanding of the rules that are used as a means (tool) to explore the laws of fiqh."<sup>3</sup> Ushul Fiqh discusses the review of legal designation methods, classifications, arguments, and the situations and conditions underlying the proposition of the argument.<sup>4</sup>

The main object of the discussion in the Usulul Fiqh is the Qur'an and Hadith, where the Qur'an and Hadith use Arabic. Arabic delivers a message in various ways at various levels of clarity. Arabic experts have made several pronunciation categories or editors which have very important meanings, one of which is reciting *Nahi*. *Nahi* or prohibition is defined by the popular usul ulul fiqh, as follows:

*Al Nahyi* is defined as follows

طلب الترك من الأعلى إلى الأدنى

"Demands to leave an action from a higher party to a lower party".<sup>5</sup>

From this definition it is clear that Al-nahyu is a prohibition to leave an act whose prohibition does come from Allah and in accordance with the Sharia. From this definition we have learned that there is not only something to do, but also a command which means a prohibition. In the Qur'an and Hadith there are *lafadz* which are firm and contain not firmness. there are words that contain from one meaning and some are mujmal. With the many meanings contained in the Qur'an, especially *al-Nahyi*, it needs to be discussed and understood the true meaning, so that every Muslim can behave according to the demands of the Sharia. Because in practice there are still many Muslims who have not fully understood the application of a rule. And there are still many Muslims who have not obeyed the rules correctly, even those who draw their own conclusions, regardless of where the source of the law is and how its application in real life, which should be in accordance with Al-Qur'an and Hadith and *ijtihad* of the scholars.

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<sup>1</sup> Kartini, 'Penerapan *al-Amr*, *al-Nahy*, dan *al-ibahah* sebagai Kaidah Penetapan Hukum', *Jurnal Al'Adl*, Vol. 9, No. 1 (2016): p. 30; Harun Nasution, *Islam Ditinjau dari Berbagai Aspeknya* (Jakarta: UI Press, 1974), p. 24

<sup>2</sup> Amir Syarifuddin, *Ushul Fiqh* (Jakarta: Logos Wacana Ilmu, 1997), p. 106

<sup>3</sup> Muhammad Abu Zahrah, *Ushul Fiqh* (Jakarta: Pustaka Firdaus), p. 3.

<sup>4</sup> *Ibid.* p. 7

<sup>5</sup> Amir Syarifuddin, *Op.Cit*, p. 109

Therefore the author made a paper entitled "*Al-Nahyu*: Concept and implementation In Islamic Law Determination

## B. Research Methods

The research method used is the literature study method. That is the technique of collecting data by searching for information through books, magazines, journals and other theoretical foundations. By reviewing books and other literacy sources, so that the theoretical foundation sought is in accordance with the topic of discussion. That way we can solve problems based on theories and formulas of assessment that have been approved the truth and agreed in general.

## C. Discussion

### The Definition Of Ushul Fiqh

'*Ashl*' (plural *ushul*) according to etymology is the foundation (fundament) on which something is built.<sup>6</sup> Understanding in terms of terminology is "the basis used as a basis by *ushul fiqh*."<sup>7</sup> Etymology *Fiqh* is a deep understanding of the purpose of a word and deed<sup>8</sup>. In terms of terminology is the knowledge of Islamic laws regarding human actions, which are taken from the arguments in detail. *Ushul Fiqh* is defined by the popular scholars as follows:

علم بالقواعد التي يتوصل بها الى استنباط الاحكام الشرعية آدلتها التفصيلية  
"Knowledge of the rules that lead in formulating syara law 'from detailed  
postulate arguments"<sup>9</sup>

*Ushul fiqh* literally, which is what is the source of *fiqh*, namely the Qur'an, Hadith, Ijma', and other sources.<sup>10</sup> *Ushul Fiqh* are the rules that explain the method (method) of taking (extracting) laws relating to human actions from the arguments of syari.<sup>11</sup>

### Objects Of Discussion On Ushul Fiqh

The object of discussion of *Ushul Fiqh* consists of 4 discussion; (1) the Islamic law, (2) the arguments and sources of the Islamic law, (3) the rules of Islamic law, and (4) *ijtihad*.<sup>12</sup>

### The Definition Of Al-Nahyu

Etymologically, *al-Nahyi* is the opposite of *al-amr*<sup>13</sup>. If *al-amr* means command, then *al-Nahy* means prohibition or deterrence. Many scholars define the meaning of *al-Nahyi*, among them, Zaky al-Din Sya'ban explains that what is meant by *al-Nahyi* is<sup>14</sup>: *Al-Nahyi is a demand*

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<sup>6</sup> Muhammad Abu Zahrah, *Op.cit*, p.3

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid*

<sup>9</sup> Amir Syarifuddin, *Garis-Garis Besar Ushul Fiqh* (Jakarta: Prenada Media, 2014), p. 3

<sup>10</sup> Muhammad Abu Zahrah, *loc.it*.

<sup>11</sup> *Ibid*, p.1

<sup>12</sup> Amir Syarifuddin, *Op.Cit*, p. 4

<sup>13</sup> Mustofa said al-Khin, *Asr al-Ikhtilaf Fi al-Qawaid al-Ushuliyah Fi Ikhtilaf al-fuqaha* (Kairo: Muassasahal-Risalah, 1969), p. 328

<sup>14</sup> Romli SA, *Muqaranah Mazahib fil Ushul* (Jakarta: Gaya Media Pratama1999), p. 187

that shows a prohibition to act. Meanwhile, Imam Abu Zahrah also states that what is meant by al-Nahyi is<sup>15</sup>: *Al-Nahyi is a guide containing prohibitions or precautions to do acts*. The majority of ulama ushul fiqh defines the following as follows<sup>16</sup>

لفظ يدل على عن فعل على جهة الإستعلال  
*the prohibition of an act of a higher party to its lower level by the sentence  
 which indicates on it*

*Nahi* is a pronunciation indicating a demand to leave something done from his boss to his subordinates. Or *nahi* is an expression that requires that something shunned by a person who is ranked higher on the lower one. Prohibition as well as commands, carry various variations of meaning. Although the basic meaning of *nahi* is a *bhikkhu*, or *tahrim* but *nahi* is also used to justify the carelessness (*karma*) of the demand (*irsyad*) or civility (*ta'dib*) and the application (*doa*). Therefore, the *nahi* carry a variety of meanings, then the scholars' differ in opinion about which of these meanings is the essence of the essence as opposed to its mere meaning or metaphorical meaning. The purpose of a prohibition is that it is not permissible to use properties that are not related to the essence of the act. *Al-Nahy* may mean prohibitions, prejudices.<sup>17</sup> *verse* means the boundary is the goal, or it may mean *al-qahadir* (the tributary is the rice field) in the sense that the water would stop flowing in a particular place.<sup>18</sup>

According to the term *al-nahy* religion it could mean the demands of leaving from the superior to the subordinate<sup>19</sup>. Hasbi mentions that *al-nahy* is: *lafazh* that tells us to stop the work commanded by the *people* above us. The meaning of *al-nahy* can be understood as something forbidden to do and always abandon it or the prohibition is the opposite of *al-amr*. Thus, *al-nahy* is a statement that is meaningful of a claim to leave a higher-than-expected act to a lower one. If there are words that contain prohibitions that are not in accordance with *qarinah*, then logically we can understand that the imperative requirement is a prohibition, so it is understandable that *Nahy* is a claim to leave an act ordered by a higher person to the person the lower the level.

### The Meaning Of *Al-Nahy*

The question of the claim to abandon an act of superior to a subordinate by Nazar Bakri<sup>20</sup> dividing the rules into some of the prohibitions:

#### a. For illegal.

الأصل فى النهي التحريم

(origin of the ban for illegal). It shows that in essence, any silent issue of *qarinah* shows the essential meaning, which is illegal, as in Q.S. al-Isra '(17): 32, namely:

<sup>15</sup> *Ibid*

<sup>16</sup> M. Zen, Satria Effendi, *Ushul Fiqh* (Jakarta: Prenada Media, 2005), p.187

<sup>17</sup> Nazar Bakri, *Fiqh dan Ushul Fiqh* (Jakarta: Raja Grafindo Persada, 1994), p. 185.

<sup>18</sup> Abi al-Husain Ahmad bin Faris bin Zakariya, *Mu'jam Maqayis al-Lughah*, Juz V, (Mesir : Maktabah al-Babi al-Halabi wa Auladuh, 1977), p. 259-260

<sup>19</sup> Nazar Bakri, *Op.Cit*, p. 187

<sup>20</sup> Nazar Bakri, *Op.Cit*, p. 185-188

" and do not approach adultery"

On the other hand when the sentence has jarinah, does not indicate the essence of a prohibition as in Q.S. 4:43, namely:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْرَبُوا الصَّلَاةَ وَأَنْتُمْ سُكَارَى.<sup>22</sup>

"O believers. Do not approach prayer, when you are drunk"

**b. Prohibition of something, instructions for the ban.**

النهي عن شيء أمر بضده

(forbidden from something, ordered by his opponent).

So, if forbidden from something, then it means a mess with one of his opponents. For example it is prohibited to sit in the garden, then not sit somewhere else, in addition to the garden.

**c. Absolute ban.**

النهي المطلق يقتضى الدوام جميع الأزمنة

(the absolute prohibition requires enduring all the time).

Such a prohibition, whether it brings destruction or refrains from it, only attains the perfect result when shunned perceived it forever. For example: the prohibition of approaching a mad dog to keep away from destruction. This valuable prohibition must indeed be done for self-enjoyment, it can be seen from the example that we are driven away from crazy dogs, for our own safety

**d. Prohibition denotes the ruin that is prohibited in worship.**

النهي يدل على الفساد المنهي عنها

(prohibition of destruction that is prohibited in worship).

To know what is valid and what is nullified in the affairs of worship, must do the command and avoid the prohibited.

**e. In muamalat affairs.**

النهي يدل على فساد المنهي عنها فى العقود

(prohibition showing the destruction of works prohibited in the law) .

The rules above are the basis for establishing a law in the form of a ban. In this connection Ash-Shiddieqy presents several meanings with al-nahy, namely (1) to know prosperity; (2) prayer; (3) signs (instructions); (4) eternity; (5) to explain the consequences; (6) to explain that this is not possible (obtained); (7) to please; (8) to expect something that is impossible to obtain; (9) to treat; (10) to stick; and (11) to expect a portion.<sup>23</sup>

<sup>21</sup> And do not come near to adultery

<sup>22</sup> O ye who believe! Come not near to prayer if in drunkenness

<sup>23</sup> Kartini, *Op.Cit*, p. 24; Ahmad Maulidizen. Studi Pemahaman Kontemporer Tentang Nilai-nilai Moral Dalam Eknomi Islam. *Hukum Islam*, Vol.16, No.2 (2017), p.139.

Referring to the above quotation, it can be understood that prohibition is a pronouncement used by a person who is higher in position or the level is addressed to a person whose position is lower than a pronouncement then it is said that in the Qur'an there are many verses that use *al-nahy* letters, but in different forms. There are those who use *la nahiyah* and some in other forms but there are indications of *al-nahy*. The word abandonment indicates that the *nahi* wants to leave an action or order not to do anything, but in another sense that even though what is desired is to do but use a word preceded by a prohibition so that it is still called *al-nahy*, so that in general *al-nahy* is the supreme argument below including all forms submitted in the form of *al-nahy* (ban), but experts *ushul* stated that the prohibition could be used to prohibit and be able to impose. The first problem is the form of *la nahiyah* as in Q.S. al-An'am: 151, which reads:

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ<sup>24</sup>

The prohibition is a form of *al-nahy*, namely the prohibition on doing something that is killing an illegitimate soul. This *sighah* is the best known in *al-nahy*.

While the second problem has an indication that *al-nahy* is stopping work. As in Q.S. al-Jum'ah: 9, which reads: وَذُرُوا الْبَيْعَ.

To determine the position of a prohibition (*al-nahy*) connotes *haram* or *makruh*, the following criteria will be stated:

1. The *al-Nahy* criteria which refer to *haram* are: (a) there is a prohibition; (b) Another *Qarinah* mentions that the person who did it was severely criticized, and on the contrary was highly praised by the person who left it; (c) Tortured by the perpetrators and given the reward of the person who left it; and (d) The Prophet was never found to violate the prohibition on purpose.
2. The *al-nahy* criteria which refer to *makruh*, namely; (a) There is a prohibition; (b) The person who did it was criticized, and on the contrary the person who left him was praised; (c) Given the reward of the person who left him, but not tortured by the person who did it; and (d) The Prophet had violated the order intentionally

## Shighat Al-Nahyi

*Sighat Al-Nahyi* consists of two forms, namely the *sharih* and the *tang zhahir*. *Sighat the sharih for nahyi* is *fi'il mudhari* (verb) which is preceded by *لا النهية* which means "do not", while *lafaz zhahir* or means prohibition and can also be used for threats for those who do it, such as the word Allah in surat an-Nur verse 2 :

الرَّائِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ

"Adulterous and adulterous women, then every one of them is a hundred times."

It is clear in the letter of verse 2 that it means that *zhahir* has a threatening meaning, as seen from the translation, that women and men who commit adultery will be given 100 lashes.

<sup>24</sup> And do not kill the souls that Allah has forbidden, except with the truth

## Words That Show Prohibition

In the Qur'an, Nahyu which uses the prohibited word contains several meanings: The characteristics of *al-Nahi* are demands that contain prohibitions, so this section will describe the various characteristics of *al-Nahi*. As for the forms of *shighat al-Nahi* are;

### 1. Fi'il Mudhari 'which is associated with لا ناهيه,

Which indicates a prohibition or states that it is not permissible to do an act. As the word of Allah in the letter Al-An'am verse 152

وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّىٰ يَبْلُغَ أَشُدَّهُ ۚ

“And do not approach the orphan's property, except in a more beneficial way, until he is an adult.”

another example in **Surah Al Baqarah verse 11**

وَإِذَا قِيلَ لَهُمْ لَا تُفْسِدُوا فِي الْأَرْضِ قَالُوا إِنَّمَا نَحْنُ مُصْلِحُونَ

Meaning: “And if it is said to them: "Do not make damage on the earth". They replied: "We are indeed those who make improvements.”

**In surah Al-Imran verse 139**

وَلَا تَهِنُوا وَلَا تَحْزَنُوا وَأَنْتُمُ الْأَعْلَوْنَ إِنْ كُنْتُمْ مُؤْمِنِينَ

“Do not be weak, and do not (also) grieve, even though you are the highest (degree), if you are believers.”

**In surah An-Nisa verse 29**

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ ۚ وَلَا تَقْتُلُوا أَنْفُسَكُمْ ۚ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

“O ye who believe, do not eat each other's wealth in a way that is vanity, except by the way of commerce that applies with the likes of you. And do not kill yourself; surely Allah is the Most Merciful to you.”

The verses above show clearly the prohibition in the form of نهية لا, such as the prohibition to approach the assets of orphans, the prohibition to eat wealth of fellow men, the prohibition on making damage on earth, and the prohibition to become weak. This prohibition is a shari'ah which does not mean that these restrictions must be kept away and should not be violated.

### 2. The word in the form of a command to leave an act.

Like the word of God in Q.S. al-Hajj: 30

فَاجْتَنِبُوا الرِّجْسَ مِنَ الْأَوْثَانِ وَاجْتَنِبُوا قَوْلَ الزُّورِ

“Then keep away from you unclean idols and stay away from false words. ”(Q.S.al-Hajj: 30)

The prohibition here instructs us not to take action issued by Islamic Shari'a, as in surat al-haji verse 30. That we are told to stay away from the act of worshiping idols because it is an act of great shirk.

### 3. Using the word (نهي) itself in the sentence.

As in the word of God

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ وَإِيتَاءِ ذِي الْقُرْبَىٰ وَيَنْهَىٰ عَنِ الْفَحْشَاءِ وَالْمُنْكَرِ وَالْبَغْيِ ۚ يَعِظُكُم لَعَلَّكُمْ تَذَكَّرُونَ.

“Verily Allah commands (you) to be fair and do good, give to the relatives, and Allah forbids evil, evil and hostility. He gives teaching to you so that you can take lessons. "(QS.al-Nahl: 90)

### 4. Number of Khabariyah

Is news sentences that are used to indicate prohibitions by prohibiting something or declaring something illegal.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرْتُوا النِّسَاءَ كَرْهًا

"hi people who believe god , it is not lawful for you to destroy women by force" (Q.S. an-Nisa ' : 19).

Of the four characteristics mentioned above, the characteristics of *al-Nahi* can be classified into prohibitions. However, according to Mustafa Said al-Khin, the characteristics of *al-Nahi* are actually *fi'il mudhari* ', which are entered or connected with (لاناويه). Beside from the ones described above, Muhammad Khuderi Bik added four more types of al-nahy characteristics, namely:

#### a. Prohibition by explaining that an act is forbidden.

For example, verse 33 of the letter Al-a'raf: Meaning: Say: "My Lord only forbids abominable actions, whether visible or hidden, and acts of sin, violating human rights without the right reasons, (forbidding) to associate partners with Allah which Allah does not bring down judgment for it and (forbids) making a claim against Allah what you do not know. "(QS. Al-a'raf / 7: 33)

قُلْ إِنَّمَا حَرَّمَ رَبِّي الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَالْإِثْمَ وَالْبَغْيَ بِغَيْرِ الْحَقِّ وَأَنْ تُشْرِكُوا بِاللَّهِ مَا لَمْ يُنْزَلْ بِهِ سُلْطَانًا وَأَنْ تَقُولُوا عَلَى اللَّهِ مَا لَا تَعْلَمُونَ

"Say, "My Lord only forbids abominable deeds, both visible and hidden, and acts of sin, violating human rights without the right reasons, (forbidding) you associate partners with Allah with something that Allah does not bring down the punishment for and forbid you abolish God what you don't know."

#### b. Prohibition by threatening the culprit with painful torture.

For example, verse 34 of the letter At-taubah: Meaning: O ye who believe, in fact most of the people of the Jewish faith and Christian monks really eat the property of the people in a vanity way and they obstruct (human) from the way of God. And those who keep gold and silver and spend them not in the way of Allah, then tell them (that they will get a painful punishment) (QS. Ta-taubah / 9: 34)



يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّ كَثِيرًا مِّنَ الْأَخْبَارِ وَالرُّهْبَانِ لَيَأْكُلُونَ أَمْوَالَ النَّاسِ بِالْبُطْلِ وَيَصْنَعُونَ عَنِ سَبِيلِ اللَّهِ وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يُنْفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ

Hi people who believe, in fact most of the believers of the Jews and the monks of Christianity really eat the property of the people with vanity and they obstruct (men) from the path of Allah. And those who save gold and silver and do not spend them in the way of God, then tell them (that they will get a painful punishment)”

#### c. Prohibition by observing the act with evil.

For example, verse 180 surah Ali-Imran: Meaning: Never let those who are miserable with the wealth that Allah has given them from His gift thinks that evil is good for them. Actually stinginess is bad for them. The treasure that they possess will be put on the neck on the Day of Resurrection. And Allah belongs to all inheritance in the heavens and on earth. And God knows what you do (QS.Ali-Imran / 4: 180)

وَلَا يَحْسَبَنَّ الَّذِينَ يَبْخُلُونَ بِمَا ءَاتَاهُمُ اللَّهُ مِنْ فَضْلِهِ هُوَ خَيْرًا لَّهُمْ بَلْ هُوَ شَرٌّ لَّهُمْ سَيُطَوَّقُونَ مَا بَخُلُوا بِهِ يَوْمَ الْقِيَمَةِ وَلِلَّهِ مِيرَاثُ السَّمٰوٰتِ وَالْأَرْضِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ

“Never let those who are miserable with the wealth that Allah has given them from His gift, thinking that it is good for them. Actually stinginess is bad for them. The treasure that they possess will be put on the neck on the Day of Resurrection. And Allah belongs to all inheritance in the heavens and on earth. And God knows what you do.”

#### d. Prohibition by eliminating the form of action itself.

Allah said in surah al baqarah verse 193 :

وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ فَإِنْ ائْتَوْا فَلَا عُدْوَانَ إِلَّا عَلَى الظَّالِمِينَ

“And fight them, so that there is no more slander and (so) obedience is only for God. If they stop (from opposing you), then there is no hostility (again), except for those who do wrong.”

From the above theories regarding words that state the prohibition. We already know that the words that state the prohibition have various forms, such as prohibitions using *fi'il mudhori*, namely *لا النهية* which means no, prohibition in the form of an order not to take an action, prohibiting the word *نهى* and prohibiting the form the action itself.

#### Appointment Of *Nahyi* Recitation Of Law

Lafaz *Nahyi* basically contains *haram*. In this case the *Ushul Fiqh* scholars set the rules of *umsul* which read;

الأصل في النهي للتحريم

The law of origin for the prohibition is *haram*, which contains the meaning when finding the argument that he transferred to another law, then the law is forbidden. The law can be unlawful if there are other arguments that are issued from the illegitimate origin.<sup>25</sup> *Nahi* is basically to show *haram*, but in the use of Arabic, sometimes the form of *nahi* is used for some

<sup>25</sup> Amir Syarifuddin, *Op.Cit*, p. 142; Ahmad Maulidizen, A. Riba, Gharar dan Moral Ekonomi Islam dalam perspektif sejarah dan komparatif: Satu sorotan literatur. *Islamiconomic: Jurnal Ekonomi Islam*, Vol. 7, No. 2 (2018): p. 148.

meaning (intent) that is not original, which means that it can be known from the arrangement of said words, which include:

**1. For show makruh** مكروه

لا تصلوا في اعطان الابل

"do not do prayer in the resting place of camels" (H.R. Ahmad and Turmidzi).

The prohibition in the hadith mentioned above is to show makruh, because it is not clean, even though it is sacred. Another example :

لا يمسن أحدكم ذكره و هو يبول

"Don't someone touch his testicles urinating"

The word prohibition above shows makruh, which is something that can be done but is hated by Allah Sgantihu wata'ala

**2. For do'a** للدعاء

رَبَّنَا لَا تُؤَاخِذْنَا إِنْ نَسِينَا أَوْ أَخْطَأْنَا

"Our Lord! do not law us if we forget or we are guilty. "(QS. Al-Baqarah: 386)

The words "let us not be our law ..." do not indicate a prohibition, because humans have no right to forbid God, because humans are under His authority, but those words show requests as prayers to Allah SWT. For example the Word of God in Surah Al-Imron: 8 "O our Lord, do not make our hearts inclined to error after you give us instructions". And other verses that explain prayer, namely :

رَبَّنَا لَا تُرِغْ قُلُوبَنَا بَعْدَ إِذْ هَدَيْتَنَا

"O Allah, do not cover my heart after you give instructions to me".

**3. For give a lesson** للارشاد

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَسْأَلُوا عَنْ أَشْيَاءَ إِنْ تُبْدَ لَكُمْ تَسْأَلُكُمْ وَإِنْ تَسْأَلُوا عَنْهَا حِينَ يُنَزَّلُ الْقُرْآنُ تُبْدَ لَكُمْ عَفَا اللَّهُ عَنْهَا وَاللَّهُ غَفُورٌ حَلِيمٌ

"do not you ask (to your prophet) the things that if explained to you will surely trouble you" (QS. Al-maidah: 101).

This prohibition is a lesson, so that we do not always ask something that will harm ourselves, especially things that are related to human relations. Another ayat that description about nahi for give a lesson :

لَا تَسْأَلُوا عَنْ أَشْيَاءَ إِنْ تُبْدَ لَكُمْ تَسْأَلُكُمْ

"Do not ask for things that are received before being accepted, undoubtedly trouble you".

**4. For decide** للتبئيس

يَا أَيُّهَا الَّذِينَ كَفَرُوا لَا تَعْتَذِرُوا الْيَوْمَ إِنَّمَا تُجْرَوْنَ مَا كُنْتُمْ تَعْمَلُونَ

"do not defend yourself today (Judgment Day)" (Surah At-Tahrim: 07)

To decide on them, that on the Day of Judgment there is no point in holding a defense; cannot be expected to get forgiveness because on the Day of Judgment the door of repentance is closed.

**5. For entertain** للالتئاس

لَا تَحْزَنْ إِنَّ اللَّهَ مَعَنَا

"Do not grieve (because) Allah is truly with us." (QS. At-Tawbah: 40)

When the Prophet Muhammad SAW. with his friend Abu Bakr hiding in Tsaur's cave, came the infidels of Quraysh until Abu Bakr was afraid, then the Prophet SAW. comforting him, "do not be troubled (worried) because God is with us".

## 6. For threats للتهديد

The employer's words to the waiter::

لا تطع امري

Meaning: "You don't have to obey this command"

What is meant is not prohibiting, but bluffing at him so he is afraid. Any act that is forbidden to require the ban is valid for as long as there is no other indication that the ban is only valid for a certain time. Likewise, any act that is prohibited from requiring the act must be stopped immediately, as long as there is no other indication that the prohibition may be suspended.

## DEVISION OF PROHIBITION

### 1. Nahi shows that the law commits prohibited acts unless there are indications that indicate other laws

For example, verse 151 surah Al-An'am:

قُلْ تَعَالَوْا أَنِئْتُ مَّا حَرَّمَ رَبُّكُمْ عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَّنَ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّاكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ

Meaning: "Let me read what is forbidden to you by your Lord, that is, do not associate anything with Him, do good to the two fathers, and do not kill your children for fear of poverty. We will give you sustenance and to them; and do not approach evil deeds, both those which appear between them and those that are hidden, and do not kill a soul that is forbidden by Allah (kill it) but with something (cause) that is right. (his)."

Examples of prohibitions accompanied by indications that show the law other than haram in Surah Al-Jumua'ah veerse 9:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَىٰ ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ ذَلِكُمْ خَيْرٌ لَّكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ

"hi people who believe, when called to pray on Friday, then hasten you to remember Allah and leave the sale and purchase. That is better for you if you know (QS. Al-Jumu'ah / 62: 9)

The ban on buying and selling in the verse according to the majority of the Ushul fiqh scholars shows the makruh law because there are indications, namely that the prohibition is directed to the essence of buying and selling but to things that are out of substance, namely the fear of committing someone to rush to Friday prayer. Because of that, people are not obliged to pray Friday as women are not prohibited from buying and selling.

### 2. prohibition on showing a facade (damaged) of an act that is prohibited if done.

Examples of restrictions on a substance are prohibitions on adultery, prohibitions on selling carcasses, and in matters of worship such as prohibitions on worship in bad conditions, both small and large. The prohibitions in this matter show the cancellation of these actions if they are still carried out. Ulama disagree when the prohibition is not directed to the essence of an act, but to things that are outside it. For example, the sale and purchase ban at the Friday prayer call and The prohibition on intercourse with the wife who was having it. According to the Hanafiyah, Syafi'iyah, and Malikiyah Imams, such a ban does not result in the cancellation

of the act if it continues to be carried out. Whereas according to some among Imam Hanbali and Imam Zahiri, prohibitions in this form indicate null and void law, together with a ban on the essence of an act like that.

### 3. Nahi shows haram

الْأَصْلُ فِي النَّهْيِ لِلتَّحْرِيمِ

"As long as the prohibition is forbidden"

According to the thought of each silent problem than the qarenah which shows the prohibition to contain the essential meaning that is haram. For example: like the word of Allah SWT:

وَلَا تَقْرَبُوا الزَّوْجَى

"And do not approach adultery.

In this verse there is a silent sentence form from the qarenah, showing the absolute prohibition of the law. And if the sentence has a qarenah, it does not show the prohibition haqiqat, like the word of Allah SWT.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْرَبُوا الصَّلَاةَ وَأَنْتُمْ سُكَارَى

Meaning: "hi people who believe, do not do prayer in a drunken state" (Surat an-Nisa: 43)

And Allah SWT also says in surat al baqarah verse 221 :

وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَ وَلَأَمَةٌ مُؤْمِنَةٌ خَيْرٌ مِنْ مُشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ وَلَا تُنْكِحُوا الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا وَلَعَبْدٌ مُؤْمِنٌ خَيْرٌ مِنْ مُشْرِكٍ وَلَوْ أَعْجَبَكُمْ أُولَئِكَ يَدْعُونَ إِلَى النَّارِ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ وَيُبَيِّنُ آيَاتِهِ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ

"And do not marry polytheists, before they believe. Surely a believer's slave woman is better than an idolatrous woman, even though she attracts your heart. And do not marry idolaters (with believing women) before they believe. Surely the servant of the believer is better than the polytheist, even though he attracts your heart. They invite to hell, while God invites to heaven and forgiveness with His permission. And God explained His verses (His commandments) to men so that they took lessons. "

### 4. Nahi shows a ban on something, an order for his opponent

النَّهْيُ عَنِ الشَّيْءِ أَمْرٌ بِضِدِّهِ

"Forbidden from something, told by his opponent"

For example: of course for a Muslim the law to leave obligatory prayer is unlawful. Therefore a Muslim is forbidden to leave the obligatory prayer, of course if a Muslim does not carry out the obligatory prayer, of course he will sin. Because the meaning of obligatory itself is that when done it gets reward and if it is left sinful.

### 5. Nahi shows an absolute prohibition

النَّهْيُ الْمَطْلُوقُ يَقْتَضِي الدَّوَامَ فِي جَمِيعِ الْأَزْمِنَةِ

"The absolute prohibition of wanting to endure in all time"

In an absolute form of prohibition, both bring destruction and away from it, only achieve perfect results, if away from the destruction forever. Like: the words of a father to his son 'do not approach the lion', then the child is told to stay away forever because to break away from destruction.

### 6. Nahi shows the prohibition on worship

النَّهْيُ يَدُلُّ عَلَى فَسَادِ الْمُنْهَيِّ عَنْهُ فِي عِبَادَاتٍ

"Prohibition of showing destruction is forbidden in worship"

To find out which is legal and which is null and void in matters of worship, he must work on orders and stay away from prohibitions. If someone for example does what is prohibited, then it violates what is ordered. People who violate orders are still required to do it, if they are still required to do it, it means that they have not been free from an act, therefore they must repeat their worship for example: women who are menstruating are prohibited from praying and fasting, meaning they are required to do it when holy.

## 7. Nahi shows a ban in mu'amalah

النَّهْيُ يَدُلُّ عَلَى فَسَادِ الْمُنْهَيِّ عَنْهُ فِي الْعُقُودِ

"Prohibition that shows damage to actions that are prohibited in ber'akad"

If the prohibition is returned to the akad itself not to others, such as: it is prohibited to sell animals that are still in the mother's womb, meaning that the sale and purchase contract is not valid, because the trade is not clear and has not fulfilled the buying and selling pillar, other: a) there are two people who are mindful (seller & buyer), b) sighat (lafadz) buying and selling and c) there are items that are traded.

Rasulullah SAW say:

نَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْمَلَاقِيحِ

"Forbid the Prophet SAW to buy children in the womb of his mother".

Sometimes the ban does not invalidate the buying jellies, such as buying and selling during Friday prayer prayers, because it neglects to immediately do Friday prayers. God's Word SWT:

إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَى ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ

"If you are called to do Friday prayers on Friday, please hurry to remember Allah (go Friday prayer) and leave the sale and purchase"

## RELATIONSHIP PROHIBITION WITH WADH'I LAW (LEGITIMATE-INVALID)

Every act is prohibited if it is also done by someone who is forbidden, the offender is prohibited from getting threats from Allah Subhanahu wata'ala. Regarding whether the violated act is valid or not, it depends on the form of the prohibited act. If the prohibition is in the area of worship and is in the substance of the worship itself, the worship is illegal. For example fasting on holidays and Tasyrik days. But if the prohibition is related to external matters, then the prohibited act is still valid. For example, pray using a stolen sarong. His prayers are still valid but he is guilty of using stolen goods

If the act is prohibited from being in the area of muamalat in the broadest sense, and what is prohibited is the act itself, then the prohibited act is invalid. The duration of the sale and purchase of animals in their mother's stomach. Likewise, if the prohibited is outside the case, the prohibited act becomes null and void. For example, buying and selling usury. Teatpi if the prohibited thing is outside the substance and does not have the norm for him, then the muamalat is still valid. For example the prohibition of buying and selling when the preacher gets on the pulpit. Buying and selling is still valid, but the sale and purchase is committed to sin, because it violates the prohibition.<sup>26</sup>

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<sup>26</sup> Amir Syarifuddin, *Op.Cit*, p.143

## **Example Of The *Al-Nahyu* Problems In Daily Life**

### **1. Case of 7 students raping underage girls**

Quoted from [kompas.com](http://kompas.com) 10/10/2018<sup>27</sup>, 7 students in the Bengkulu area were convicted of raping underage girls with the initials DA (14). The incident began with the introduction of DA with one of the suspects on the road, and then the two exchanged social media accounts. After that there was intensive communication between the two. One day one of the suspects invited DA to his boarding house, and there was a rotating rape which happened to victims which was carried out for one night until late in the morning.

### **2. Girl raped by 3 men**

Quoted from [detiknews](http://detiknews)<sup>28</sup>, 14-year-old girl rape victim 3 men in Makassar continue to cry, where underage children are held captive and threatened if they do not serve.

### **3. The 15-year-old child was molested by his stepfather and biological mother**

The case was quoted from the [detiknews](http://detiknews)<sup>29</sup>, that there was a 15-year-old girl molested by her stepfather and biological mother.

### **4. Students of Vocational Schools in Bogor are killed after returning from school**

Quoted from [tempo.co](http://tempo.co)<sup>30</sup> 01/17/2019 there were murders of Vocational School Students in Bogor caused by stab wounds, after the victim returned home from school, the killer was initially suspected to be his lover, but the police said that the former victim was not the culprit.

### **5. A man dies from being hacked after a prayer**

Quoted from [liputan 6](http://liputan6)<sup>31</sup> there was a man killed in prayer prayers at the mosque, lucky the perpetrators could be arrested by residents.

This case according to the author can occur because of several factors including:

#### **1. Lack of understanding of religion**

Religion is the most important foundation in attitude. This case will not be possible if the suspect and victim understand each other the prohibition of approaching adultery in the annur letter verse 2:

وَلَا تَقْرَبُوا الزَّوْجَ إِذَا كَانَ فَاكِشَةً وَسَاءَ سَبِيلًا

"And do not approach adultery; in fact adultery is an abominable act. And a bad way. "(Al-Israa' / 17: 32)

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<sup>27</sup> <https://regional.kompas.com/read/2018/10/10/14171211/tujuh-pelajar-perkosa-gadis-bawah-umur>

<sup>28</sup> <https://news.detik.com/berita/d-4382825/masih-trauma-gadis-14-tahun-korban-pemeriksaan-3-priaterus-menangis>

<sup>29</sup> <http://www.tribunnews.com/regional/2019/02/07/gadis-15-tahun-di-jakarta-dicabuli-ayah-tiri-dan-ibu-kandungnya-ternyata-sudah-direncanakan>

<sup>30</sup> <https://metro.tempo.co/read/1163775/siswi-smk-bogor-dibunuh-polisi-sebut-mantan-pacar-bukan-pelaku/full&view=ok>

<sup>31</sup> [https://www.google.co.id/search?q=google+translate&oq=google+translate&aqs=chrome.69i59j0l5.11345j0j8&sourceid=chrome&espv=2&es\\_sm=93&ie=UTF-8](https://www.google.co.id/search?q=google+translate&oq=google+translate&aqs=chrome.69i59j0l5.11345j0j8&sourceid=chrome&espv=2&es_sm=93&ie=UTF-8)

الرَّانِيَةُ وَالرَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلْيَشْهَدْ عَذَابُهُمَا طَائِفَةٌ مِنَ الْمُؤْمِنِينَ

Adultery women and men who commit adultery, then each one of them will be hurt by one hundred dali, and do not give mercy to them to prevent you from (carrying out) the religion of Allah, if you believe in Allah, and the Hereafter, and let (implementation) their punishment was witnessed by a group of believers. (Q.S. An-Nuur / 24: 2)

In the surah Al-Isra verse 32 it has been clearly stated that it is forbidden to approach zina, as in the case of the Facebook account exchanging, and then chat intensely it is similar to approaching adultery, which leads to the rape of the victim. And there is a clear threat to those who commit adultery, in the annur letter verse 2, which is in if Muslims understand all the prohibitions and stay away from them then things will not happen beyond their will. Because the true understanding of religion for the salvation of the world and the hereafter. From murder cases, we have known that killing is a big sin. In Surat Al-Isra verse 33, it has been explained that killing is prohibited.

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ

“And do not kill the soul that is forbidden by Allah (kill him), but with a right (reason). [al-Isrâ / 17: 33].”

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ اجْتَنِبُوا السَّبْعَ الْمُوبِقَاتِ قَالُوا يَا رَسُولَ اللَّهِ وَمَا هُنَّ قَالَ الشِّرْكُ بِاللَّهِ وَالسِّحْرُ وَقَتْلُ النَّفْسِ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَأَكْلُ الرِّبَا وَأَكْلُ مَالِ الْيَتِيمِ وَالتَّوَلَّى يَوْمَ الرَّحْفِ وَقَذْفُ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ الْغَافِلَاتِ

From Abu Hurairah Radhiyallahu anhu, from the Prophet sallallaahu 'alaihi wa sallam, he said: "Stay away from seven (sin) that destroy!" They (the Companions) ask, "O Raslullah, what is that?" He sallallaahu 'alaihi wa sallam replied, "Shirk to Allah, magic, kill souls that Allah forbid except with haq, eat usury, eat the wealth of orphans, turn away from raging wars, accuse zina of free women who guard honor, who believe, and who are clean from adultery" . [Al-Bukhari, no. 2615, 6465; Muslim, no. 89].

## 2. Electronic Media Crime

Globalization brings rapid technological advances, one of which is the emergence of smartphones that are very loved by the millennial generation. So great is the benefit of a smartphone, if we can use it wisely and according to our needs. But on the contrary if we are not careful in using it, then technological advances can bring malapetka to ourselves. Taken from the example of "7 students who raped underage girls", it is clear that there are crimes of social media, which are both intensively exchanging messages on Facebook, giving rise to mutual love without knowing whether the person interacting with us good or not. It could be and most likely, 7 actors can do that because they love pornographic videos or images. It could be a murder that occurs due to consuming a lot of spectacle that is a psychopathic genre, so it cannot control emotions and ends in violence and murder.

## 3. Lack of family attention

Family is the main foundation for creating a personality, and the role of parents in it is very important. Parents should always give love, by watching all activities. So that children feel more loved and always cared for. If an incident like this has happened, it means that it is proof of the negligence of parents in looking after their children. From the above examples of criminal

cases, all are violations of Al-Nahyu, because the suspects did things that were forbidden by Islam, such as killing and raping. This certainly makes restlessness for the surrounding community. For this reason, parents should maintain and supervise their children, and instill religious detention early on, because when viewed, technological progress is increasingly rapid and uncontrolled.

#### D. Conclusion

*Usul Fiqh* is a method of determining a law. *Al-Nahyi* is one of the topics of the *Ushul Fiqh* itself, which means it is prohibited to work on something that is prohibited by the Shari'ah. Which has meaning for illegal, prohibition of something, instructions for the ban, absolute ban, prohibition denotes the ruin that is prohibited in worship, in muamalat affairs. And there are words that show a prohibition: Fi'il Mudhari 'which is associated with لا ناهيه, The word in the form of a command to leave an act, Using the word (نهى) itself in the sentence, Number of Khabariyah. There are Devision of Prohibition: *Nahi* shows that the law commits prohibited acts unless there are indications that indicate other laws, a prohibition on showing a facade (damaged) of an act that is prohibited if done, *Nahi* shows haram, *Nahi* shows a ban on something, an order for his opponent, *Nahi* shows an absolute prohibition, *Nahi* shows the prohibition on worship, *Nahi* shows a ban in mu'amalah.

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